

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STACY L. WRIGHT,

Defendant.

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CASE NO. 8:09CR23

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Defendant's appeal (Filing No. 29) from the Magistrate Judge's order (Filing No. 26) denying the Defendant's restricted motion to continue trial (Filing No. 24).

In an appeal from a magistrate judge's order on a pretrial matter within 28 U.S.C. § 636(b)(1)(A), a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A).

While the undersigned Judge respects the Magistrate Judge's discretion exercised in this matter, good cause has been shown for the requested extension. The Magistrate Judge stated "that the defendant has not satisfactorily explained why plea negotiations cannot be timely completed and has not shown good cause for a continuance of the scheduled trial date." However, the Magistrate Judge's order did not address the additional proffered reasons for the requested continuance. The Court is persuaded that the reason stated in ¶ 5 of the restricted motion demonstrates good cause for the requested continuance. The Court finds that, under the circumstances presented, the ends of justice outweigh the best interest of the Defendant in a speedy trial. 18 U.S.C. §§ 3161(h)(7)(A) & (h)(7)(B). Therefore, the Defendant's appeal is granted.

IT IS ORDERED:

1. The Defendant's appeal from the Magistrate Judge's order (Filing No. 29) is granted;
2. The Magistrate Judge's previous order (Filing No. 26), is overruled;
3. Trial in this matter is continued to **September 8, 2009, at 9:00 a.m.**, with the attorneys meeting in chambers at **8:30 a.m.**;
4. The Defendant's speedy trial affidavit must be filed as soon as possible; and
5. For this defendant, the time between today's date and the trial date is excluded for purposes of computing the limits under the Speedy Trial Act because the ends of justice outweigh the best interest of the Defendant in a speedy trial and for the reasons stated in the Memorandum. 18 U.S.C. §§ 3161(h)(7)(A) & (h)(7)(B).

DATED this 13th day of May, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge